

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

DAVID O. JACOBSON

PLAINTIFF

v.

Civil No. 1:19-cv-997-HSO-RPM

CITY OF GULFPORT, et al.

DEFENDANTS

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION [6] AND DISMISSING CASE WITHOUT PREJUDICE**

BEFORE THE COURT is United States Magistrate Judge Robert P. Myers, Jr.'s Report and Recommendation [6], which recommends dismissing this action without prejudice. After due consideration of the Report and Recommendation [6], the record, and relevant legal authority, the Court finds that the Magistrate Judge's Report and Recommendation [6] should be adopted and that this action should be dismissed without prejudice.

I. BACKGROUND

Plaintiff David O. Jacobson ("Plaintiff") filed a pro se suit against the City of Gulfport, City of Biloxi, Gulfport Police Department, Biloxi Police Department, the State of Mississippi, and various unidentified police officers on December 31, 2019, alleging that Mexican nationals working in the construction industry in South

Mississippi are participating in a conspiracy and threatening homeland security. Compl. [1] at 12-13. Plaintiff claims that these Mexican nationals operate undetected in cells because of sanctuary city practices, and that this “faction” is funded by Grant & Brown Construction. *Id.* at 13. Plaintiff alleges that these “operatives” are not in fact carpenters or construction workers, rather, they have close ties to cartels and the Mexican Mafia. *Id.* at 13-17.

The Magistrate Judge entered an Order [3] on April 2, 2020, granting Plaintiff’s Motion [2] to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. *See* Order [3]. On October 20, 2020, the Magistrate Judge scheduled an in-person omnibus hearing for November 16, 2020, *see* Min. Entry, Oct. 20, 2020, and the Court mailed a copy of this notice to Plaintiff’s address of record: 2640 Canal St., 4th Floor, New Orleans, LA 70119. Despite this notice, Plaintiff failed to appear at the hearing on November 16, 2020. The Court announced Plaintiff’s case and called his name three times both inside and outside of the courtroom, to which no response was given. Min. Entry, Nov. 16, 2020. To date, Plaintiff has not contacted the Court, nor have any of the Court’s mailings to Plaintiff in connection with this case been returned as undeliverable. *See* Not., April 2, 2020; Not., June 23, 2020; Not., August 3, 2020,

Accordingly, the Magistrate Judge entered a Report and Recommendation [6] on November 16, 2020, recommending that the Court dismiss this action without prejudice for failure to prosecute. R. & R. [6] at 2. The Report and

Recommendation concluded that “[b]ased on Plaintiff’s failure to appear at the hearing, for which he received notice, and his failure to otherwise communicate with the Court regarding this matter, the Court finds Plaintiff no longer demonstrates interest in prosecuting his claims.” *Id.* Plaintiff has not filed an Objection to the Report and Recommendation [6], and the time for doing so has passed.

II. DISCUSSION

Where no party has objected to a magistrate judge’s report and recommendation, the Court need not conduct a de novo review of it. 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.”). In such cases, the Court applies the “clearly erroneous, abuse of discretion and contrary to law” standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted the required review of the record, the Court concludes that the Report and Recommendation [6] is neither clearly erroneous nor contrary to law and that it should be adopted as the finding of the Court. This matter should be dismissed without prejudice for failure to prosecute.

III. CONCLUSION

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Report and Recommendation [6] of United States Magistrate Judge Robert P. Myers, Jr., entered in this case on November 16, 2020, is adopted in its entirety as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, this civil action is **DISMISSED WITHOUT PREJUDICE**. A separate judgment will be entered in accordance with this Order as required by Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED AND ADJUDGED, this the 8th day of December, 2020.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE